



Planning Committee Agenda

Wyre Borough Council
Date of Publication: 27 February 2024
Please ask for: George Ratcliffe
Assistant Democratic Services Officer
Tel: 01253 887608

**Planning Committee meeting on Wednesday, 6 March 2024 at 2.00 pm
in the Council Chamber - Civic Centre, Poulton-le-Fylde**

1. Apologies for absence

2. Declarations of interest

Members will disclose any pecuniary and any other significant interests they may have in relation to the matters under consideration.

3. Confirmation of minutes (Pages 3 - 8)

To approve as a correct record the Minutes of the meeting of the Planning Committee held on Wednesday 7 February 2024.

4. Appeals (Pages 9 - 10)

The Schedule of Appeals lodged and decided between 15 January 2024 – 15 February 2024, is attached.

5. Planning applications

Background Papers:

In preparing the reports on this agenda the following documents have been used:

1. The Wyre Borough Local Plan (2011-2031) (incorporating partial update of 2022)
2. Draft Revised Joint Lancashire Minerals and Waste Local Plan
3. Joint Lancashire Minerals and Waste Local Plan
4. Statements of Government Policy/guidance (NPPF, NPPG, Ministerial Statements etc.)
5. Supplementary Planning Guidance and evidence base documents specifically referred to in the reports
6. The application file (as per the number at the head of each report)

7. The forms, plans, committee reports and decisions as appropriate for the historic applications specifically referred to in the reports
8. Any additional information specifically referred to in each report.

These background documents are available on line, or for inspection by a written request to Planning Services, Civic Centre, Breck Road, Poulton-le-Fylde, FY6 7PU.

Reports of the Head of Planning Services on planning applications to be determined at this meeting:

- | | | |
|-----|---|-----------------|
| (a) | Application 1 - 6 Breck Road Poulton le Fylde
23/00705/FUL
Proposed shop front replacement, following demolition
of existing shop front. | (Pages 11 - 20) |
|-----|---|-----------------|

- 6. Wyre Council Tree Preservation Order No 2 of 2024: Land west of 2 Eaton Way, Poulton le Fylde, FY6 8DS** (Pages 21 - 32)

Report of the Corporate Director Environment.

PLEASE NOTE:

Transport for members of the committee will leave the Civic Centre, for the site visits, at 11:15am.



Planning Committee Minutes

The minutes of the Planning Committee meeting of Wyre Borough Council held on Wednesday, 7 February 2024 at the Council Chamber - Civic Centre, Poulton-le-Fylde.

Planning Committee members present:

Councillors Lady D Atkins, Rendell, Amos, Catterall, Fielding, Higgs, Higginson, Livesey, Preston, Raynor, Rimmer and Belshaw

Other councillors present:

Councillors Berry and Le Marinel

Officers present:

George Ratcliffe, Assistant Democratic Services Officer

Karl Glover, Development Manager

Steve Smith, Head of Planning and Regeneration

Angela Parkinson, Solicitor

Lisa Dodd, Solicitor

Rob McKillop, Senior Planning Officer

Madison Yeo, Affordable Housing Delivery Officer

Marianne Unwin, Democratic Services and Scrutiny Manager (Temporary)

14 members of the public attended the meeting.

PA.54 Declarations of interest

None.

PA.55 Confirmation of minutes

The minutes of the meeting of the Planning Committee held on Wednesday 10 January 2024 were confirmed as a correct record by those who were in attendance.

PA.56 Appeals

The committee noted the Schedule of Appeals lodged and decided between 15 December 2023 and 15 January 2023. The Chair invited any Member requiring any further details or clarification on the appeal to contact the relevant case officer.

The Head of Planning and Regeneration gave a verbal update in relation to the enforcement case at 2 Breck Road.

PA.57 Planning applications

PA.58 Application 1 - Normoss Farm Normoss Road 23/00624/FULMAJ

The application was brought before members for consideration at the request of Councillors Berry and Nicholls who cited concerns in relation to the proposed development being inappropriate and located within the Green Belt. Concerns were also raised about the number of dwellings for the size of the site, and the car parking being distant from the properties they served which could result in security issues.

A site visit occurred to enable members to understand the site context beyond the plans submitted and site photographs taken by the case officer.

An update sheet was published on the council's website, the information only having become available after the original agenda was published. The committee considered the update sheet, which contained an additional consultee response and public representation which was acknowledged by officers.

The Senior Planning Officer introduced the report. The application was for the redevelopment of a site for 21 new dwellings with associated landscaping and vehicular access. He highlighted that the site had several different uses over the years and lied within the Green Belt as defined in the Wyre Local Plan 2011-2031 (WLP31).

Wyre Borough Councillor for Hardhorn with Highcross ward, Roger Berry, spoke against the application.

Richard Lawrence, acting as the applicant, spoke in favour of the application.

Councillors Preston, Rimmer, Higginson and Fielding asked questions of the speaker.

The Chair ended the public speaking portion of the meeting and opened up the members' debate.

Councillor Higginson asked for clarification regarding brownfield and greenfield sites.

Following discussion and a proposal by Councillor Amos, seconded by Councillor Lady Atkins, it was resolved to refuse the application as per the Officers recommendation for the following reasons:

1. The application site was within the Green Belt where the construction of new dwellings represents an inappropriate form of development unless very special circumstances exist, or the development represents an exception allowed under Paragraph 154 of the

NPPF. The development would fail to preserve the openness of the Green Belt and failed to meet any of the exceptions listed in Paragraph 154 of the NPPF. It had not been demonstrated that there were any very special circumstances to outweigh the harm to the Green Belt and the application would be contrary to Policy SP3 of the Wyre Local Plan and Paragraphs 152 and 154 of the NPPF.

2. The development would erode the sense of openness of the area of Green Belt and would introduce a more urban character within this area, which currently had a semi-rural character. The development would be unsympathetic to the appearance and layout of surrounding deployment and the layout would result in some of the dwellings being within close proximity, including windows being opposite other buildings. This would result in an unacceptable and harmful amenity impact for future occupiers and the development would not represent a high standard of design and would therefore conflict with Policy CDMP3 and guidance within Chapter 12 of the NPPF, as well as the Council's Supplementary Planning Guidance 4.
3. The layout did not include appropriate bin storage arrangements for all proposed dwellings which was likely to result in bins being positioned within footways and carriageways. This was likely to result in danger to both pedestrians and vehicles, particularly when bins are due for collection. Additionally, the internal layout did not allow for all future users to safely access the play area and the site access given the absence of appropriate footways. Whilst there was a bus stop on Normoss Road, the lack of a safe walking route to the site access may discourage sustainable travel options for future occupiers. The development was deemed to have a detrimental and unacceptable impact on highway safety and would conflict with Policy CDMP6 of the Wyre Local Plan and guidance within Chapter 9 of the NPPF.
4. The submitted Flood Risk Assessment (FRA) did not provide appropriate details of surface water management and the submitted drainage details do not demonstrate accordance with the drainage hierarchy set out in Policy CDMP2 of the Local Plan. Furthermore, the submitted FRA was dated 2009 and appeared to include out of date information, including maps showing drainage details and flood zones. Overall the application had not demonstrated an acceptable impact in terms of flooding and drainage and would conflict with Chapter 14 of NPPF, the National Planning Policy Guidance 'Flood Risk and Coastal Change, and Policy CDMP2 of the Wyre Local Plan.
5. An up to date bat survey had not been submitted with the application and therefore insufficient information had been submitted to assess whether the development would have an acceptable impact on protected species. Additionally, a Habitat Regulations Assessment had not been submitted with the application to assess the impact of development on the nearby Morecambe Bay and Duddon Estuary SPA/Ramsar sites. In the absence of a HRA, the application had not demonstrated that there would be an acceptable impact on the

Morecambe Bay and Duddon Estuary SPA/Ramsar sites. The application would conflict with Policy CDMP4 of the Wyre Local Plan and guidance within Chapter 15 of the NPPF as well as the Habitat and Species Regulations 2017 (as amended) and The Wildlife and Countryside Act 1981 (as amended).

PA.59 Application 2 - 35 Dallam Dell Thornton Cleveleys 23/01040/FUL

The application was brought before members for consideration at the request of Councillor Higginson.

A site visit occurred to enable members to understand the site context beyond the plans submitted and site photographs taken by the case officer.

The Planning Development Manager introduced the report. The application was for a proposed change of use from 1 dwelling (Class C3) to a children's care home (Class C2). He highlighted that there were neighbouring residential properties to the sides and front and the application site was within Flood Zone 3.

John Baron spoke in objection to the application.

Councillors Catterall, Fielding and Higginson asked questions of the speaker.

Mark O'Neill spoke in objection to the application.

Councillor Catterall asked a question of the speaker.

Michelle Greenwood spoke in objection to the application.

Councillor Higginson asked a question of the speaker.

The Chair ended the public speaking portion of the meeting and opened up the members' debate.

Members raised concerns over parking, size of the property, narrow driveway and no footpaths.

Councillor Higginson asked if there had been any updates from Lancashire Constabulary and the Environmental Agency. The Planning Development Manager confirmed there had been no updates.

The Head of Planning and Regeneration clarified that the first reason for refusal related to the visual amenity of the street.

Following discussion and a proposal by Councillor Higginson, seconded by Councillor Amos, it was resolved to refuse the application as per the Officers recommendation for the following reasons:

1. The proposed change of use would result in an intensification of activity at the site, having regard in particular to the frequency and

pattern of visits by staff, and an increased demand for on-street parking. The intensification of staff movements to/from the property on a regular and frequent basis, including at unsociable times, would result in an unacceptable impact on neighbouring amenity from noise and disturbance. The intensification of vehicles associated with the development and the inadequate parking at the site would result in increased on-street parking. In this cul-de-sac setting, this would have an unacceptable impact on the visual amenity of the street, with cars parked in the street rather than off-street, which is characteristic of this road. Also, there would be unacceptable harm to the highway amenity of the street, with the potential for restricting vehicle and pedestrian movements. This would be contrary to the NPPF and Policy CDMP3 of the Adopted Wyre Local Plan.

2. The proposal did not provide details of safe access and escape routes as part of an emergency plan for the development in relation to flooding. This would present the potential for an unacceptable risk of flooding to the harm of people. This would be contrary to Section 14 of the NPPF and the National Planning Policy Guidance 'Flood Risk and Coastal Change', and Policy CDMP2 of the Adopted Wyre Local Plan.

The meeting started at 2.00 pm and finished at 2.43 pm.

Date of Publication: 13 February 2024

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APPEALS LODGED AND DECIDED
Appeals Lodged between – 15th January 2024 – 15th February 2024

Application Number	Location	Proposal	Com/Del decision	Appeal Type	Date Lodged
No appeals lodged					

Appeals Decided between – 15th January 2024 – 15th February 2024

Application Number	Location	Proposal	Com/Del decision	Decision	Date Decided
No appeals decided					

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Committee Report

Date: 06.03.2024

Item Number	01
Application Number	23/00705/FUL
Proposal	Proposed shop front replacement, following demolition of existing shop front
Location	6 Breck Road Poulton-Le-Fylde Lancashire FY6 7AA
Applicant	Mr Simon Luptrott
Correspondence Address	c/o Mr Darren Trippier 1 Norton Vale Thornton Cleveleys FY55QB United Kingdom
Recommendation	Permit

REPORT OF THE HEAD OF PLANNING SERVICES

CASE OFFICER - Mrs Andrea Stewart

Site Notice Date: 19.09.23

Press Notice Date: N/a

1.0 INTRODUCTION

- 1.1 This planning application is presented before Planning Committee at the request of Councillor Le Marinel citing concerns relating to the impacts on residential amenity arising from the proposal. A site visit is recommended to enable members to understand the site context beyond the plans submitted and site photographs taken by the Case Officer.

2.0 SITE DESCRIPTION AND LOCATION

- 2.1 The application property is an existing drinking established (use class Sui Generis) known as Boca situated on the eastern side of Breck Road, Poulton-le-Fylde, close to its junction with Ball Street, and Vicarage Road. This area of the town is defined as a primary shopping area with a secondary frontage in the adopted Local Plan and is within the Poulton-le-Fylde Conservation Area and Town Centre. The property is not a Listed Building and is two storey within a row of terrace commercial properties, brick built, with timber windows and a pitched slate roof. At ground floor there is a modern glazed shop front with fascia sign above. The property has been extended to the rear. Beyond the rear boundary is a parking area used by the Cube and beyond that residential properties on Prudy Hill.

3.0 THE PROPOSAL

- 3.1 This planning application is for a proposed shop front replacement, following demolition of existing shop front. The proposed shop front seeks to replace the existing with a more contemporary design that includes bi-folding windows that fold back to allow the full width of the shop window (excluding the door) to fold back and become open this would sit within the ground floor building frontage onto Breck Road. The bottom panels to a height of 0.87m below the bifolding windows would be fixed timber panels. The bifolding windows would be positioned adjacent to a new, part glazed front door. The materials would comprise of a black finish timber panelled stall riser and mullions.

4.0 RELEVANT PLANNING HISTORY

- 4.1 12/00597/FUL - Application for a variation of condition No 2 attached to 10/00920/FUL, to allow opening until 1:30 AM - Approved subject to following condition

Condition 01 - The use of these premises in accordance with this permission shall be restricted to the following hours; 07.00hrs to 01.30hrs on Monday to Saturdays and 09.00hrs to 01.30hrs on Sundays and Bank Holidays.

- 4.2 10/00920/FUL - Retrospective application for a change of use of property to an A4 use (drinking establishment). Approved by committee 2 February 2011 subject to following conditions

Condition 02 - The use of these premises in accordance with this permission shall be restricted to the following hours; 07.00hrs to 00.30.00hrs on Monday to Saturdays and 09.00hrs to 00.30hrs on Sundays and Bank Holidays.

Condition 03 - There shall not be any emptying of bottle bins between the hours of 12:00 midnight and 08:30.

5.0 PLANNING POLICY

- 5.1 ADOPTED WYRE BOROUGH LOCAL PLAN 2011-2031) (INCORPORATING PARTIAL UPDATE OF 2022) AND BARTON NEIGHBOURHOOD PLAN (2019-2030)

- 5.1.1 The Wyre Local Plan (2011-2031) (incorporating partial update of 2022) (WLPPU31) was adopted on 26 January 2023 and forms the development plan for Wyre. The Barton Neighbourhood Plan (2019-2030) was adopted on 30 November 2023 and forms part of the development plan for Wyre, where decisions are made within the Barton Neighbourhood area. To the extent that development plan policies are material to the application, and in accordance with the provisions of section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 the decision must be taken in accordance with the development plan unless there are material considerations that indicate otherwise.

- 5.1.2 The following policies contained within the WLPPU 2031 are of most relevance:

SP2 - Sustainable Development
CDMP3 - Design

CDMP5 - Historic Environment
EP4 - Town Centre Boundary
EP5 - Primary Shopping Area
EP56 - Secondary Frontage

5.2 NATIONAL PLANNING POLICY FRAMEWORK 2023

5.2.1 The revised National Planning Policy Framework (NPPF) was published by the Government on 19th December 2023. It sets out the planning policies for England and how these should be applied in the determination of planning applications and the preparation of development plans. At the heart of the NPPF is a presumption in favour of sustainable development (paragraph 11). The policies in the 2023 NPPF are material considerations which should also be taken into account for the purposes of decision taking.

5.2.2 The following sections / policies set out within the NPPF are of most relevance:

Section 2 Achieving Sustainable Development
Section 6 Building a strong, competitive economy
Section 12 Achieving well-designed places
Section 16 Conserving and enhancing the historic environment

OTHER MATERIAL CONSIDERATIONS

5.3. NATIONAL PLANNING PRACTICE GUIDANCE

Historic Environment
Design
Noise

5.4 OTHER RELEVANT NATIONAL GUIDANCE / LEGISLATION

Historic England, Good Practice Advice in Planning.

The Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBCA), S.66 and S.72

5.5 WYRE SUPPLEMENTARY PLANNING GUIDANCE

SPG 3 - Signs and Shop Fronts in Conservation Areas

6.0 CONSULTATION RESPONSES

6.1 POULTON-LE-FYLDE HISTORICAL & CIVIC SOCIETY

6.1.1 No comments received at the time of compiling this report

6.2 LANCASHIRE COUNTY COUNCIL (HIGHWAYS)

6.2.1 No objections. Verbally advised that the proposal will not affect or involve works within the adopted highways and as such there is no objections to the proposed replacement frontage

6.3 WBC HEAD OF ENVIRONMENTAL HEALTH AND COMMUNITY SAFETY
(ENVIRONMENTAL PROTECTION - AMENITY)

6.3.1 No objection but request restricting the opening of the proposed windows to 7pm only.

7.0 REPRESENTATIONS

7.1 No observations received at the time of compiling this report

8.0 CONTACTS WITH APPLICANT/AGENT

8.1 During processing the planning application there has not been contact with the applicant or the agent.

9.0 ISSUES

9.1 The main issues in this application are as follows:

- Principle of the development and policy compliance
- Visual Impact, Design and Impact on the street scene
- Impact on Historic Environment
- Impacts upon Residential Amenity

Principle of the Development

9.2 This application seeks consent for the replacement of the shop front only. The principle and the use of the premises as a drinking venue is already established with restrictions conditioned accordingly in relation to the opening hours of the premises. There is no change of use proposed as part of this application, which relates to external alterations to the existing building only. In principle external works to existing premises is considered acceptable, the National Planning Policy Framework (NPPF) gives support to business and sets out that planning should operate to encourage, and not act as an impediment to, sustainable growth. Significant weight should be placed on the need to support economic growth through the planning system with a proactive approach to meet the development needs of business.

9.3 Overall, the application would accord with the relevant national and local planning policies and is considered to be acceptable in principle subject to other matters which will be considered elsewhere in this report.

Visual Impact, Design and Impact on the street scene

9.4 The application site is located in a prominent position within Poulton-le-Fylde Conservation Area, the front elevation faces Breck Road which is one of the main roads within the one way traffic flow within Poulton Town Centre. The shop frontage is modest in width along the commercial row of terraced properties to the East of Breck Road and currently the building contains a modern, 20th Century shop front. This proposal seeks to replace the existing shop front with a more contemporary design that includes bi-folding windows that would sit entirely within the building frontage when in the open position.

9.5 Along this part of Breck Road there are modern frontages to the main front elevations including a similar shop front at 24 Breck Road. The new shop

front is of an acceptable design with the materials comprising of a timber panelled stall riser and mullions coloured black to harmonise with the architectural features of the building. These materials and external finishes are considered to be acceptable. The proposal is of an appropriate design and would comply with the provisions of policy CDMP3 of the Wyre Local Plan.

Impact on the Historic Environment

- 9.6 The subject building is not a Listed Building however it is located centrally within the Poulton Le Fylde conservation Area. In determining planning applications, local planning authorities have special duties with regard to preserving the character and appearance of conservation areas under s66 and s72 of the Town and Country (Listed Buildings and Conservation Areas) Act 1990 respectively. The NPPF emphasises that great weight should be given to the conservation of heritage assets and that the significance of an asset can be harmed by development within its setting (NPPF paragraphs 193-4). Policy CDMP5 of the WLP31 seeks to protect, conserve and where appropriate enhance the historic environment through high standards of design.
- 9.7 In Supplementary Planning Guidance 'Signs and Shop Fronts in Conservation Areas' it requires an existing shopfront that is of special or traditional character, to retain many of its features and is capable of restoration then refurbishment however in this case it involves the replacement of an existing modern shop frontage of little historic importance. The materials used would be timber painted black colour which is an acceptable more traditional material and respectful of Poulton Conservation Area. The Conservation Officer raises no objection and has advised that the proposal would sustain the significance of the conservation area and comply with Policy CDMP5 and Section 16 of the NPPF.

Impacts upon Residential Amenity

- 9.8 There is residential accommodation and flats at upper floor levels in the area near to the application site along with other residential houses in the wider area, the nearest being those within the terraced dwelling to the rear on Prudy Hill (approximately 10m distance to the rear of the building at the application site and the garden of these dwellings, 16m to the rear elevations of dwellings at the nearest distance. The rear of The Cube public house separates the application site to the dwellings on Prudy Hill. The impact on the residential amenity of its occupants is an important consideration.
- 9.9 The retractable windows are positioned to the front elevation of the building facing Breck Road which is a busy main road with heavy traffic flows. There is also a number of bars and other commercial properties along Breck Road therefore the background noise levels are already higher. The greatest impacts from the proposed bi folding windows will relate to the residential flats above due to the close proximity and potential noise from the commercial premises. The dwellings on Prudy Hill behind the application site are some distance away from the front elevation of the subject property and as such are unlikely to be affected by any noise impacts from the proposal.
- 9.10 The main issue arising from the proposal is whether or not the proposed bi folding windows would have any significant adverse impacts on residential

amenity arising from noise when they are open. An Acoustic Noise Assessment has been submitted with the planning application and concludes that the proposed development will not result in any adverse impact on the nearby residential properties and no additional mitigation measures are required. However, it does recommend that the opening of the windows be restricted to 19:00hrs on any given day, to ensure minimal sound emissions when the venue gets busier in the evening. It is recommended that an appropriately worded condition is added to this effect. The Councils Environmental Health Officer has raised no objection to the proposal.

- 9.11 Subject to a condition preventing the opening of the retractable windows after 19:00hrs it is not considered the proposal would result in significant adverse impacts upon neighbouring amenity and would comply with the provisions of Policies CDMP1 and CDMP3 of the Wyre Local Plan.

10.0 CONCLUSION

- 10.1 The principle of the development in this town centre location is acceptable. Although the replacement shop front is of a modern design this will not have any visual harm to the character of the street scene or the historic setting of the Poulton conservation Area. Subject to conditions the proposal is not considered to have any significant impacts upon residential amenity and for the reasons set out within this report the proposal complies with the relevant policies of the Wyre Local Plan and the National Planning Policy Framework.

11.0 HUMAN RIGHTS ACT IMPLICATIONS

- 11.1 ARTICLE 8 - Right to respect the private and family life has been considered in coming to this recommendation.
- 11.2 ARTICLE 1 - of the First Protocol Protection of Property has been considered in coming to this recommendation.

12.0 RECOMMENDATION

- 12.1 Grant full planning permission subject to conditions

Recommendation: Permit

Conditions: -

1. The development must be begun before the expiration of three years beginning with the date of this permission.

Reason: This condition is required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development shall be carried out, except where modified by the conditions to this permission, in accordance with the Planning Application received by the Local Planning Authority on 24.08.2023 including the following plans/documents:
 - Location plan received on 20.07.23
 - Proposed plans and elevation drawing 1994.01 received on 20.07.23

The development shall be retained hereafter in accordance with this detail.

Reason: For the avoidance of doubt and so that the Local Planning Authority shall be satisfied as to the details.

3. The development shall be carried out strictly using those materials specified on the approved plan 1994.01 unless other minor variations are submitted to and approved in writing by the Local Planning Authority after the date of this permission and before implementation.

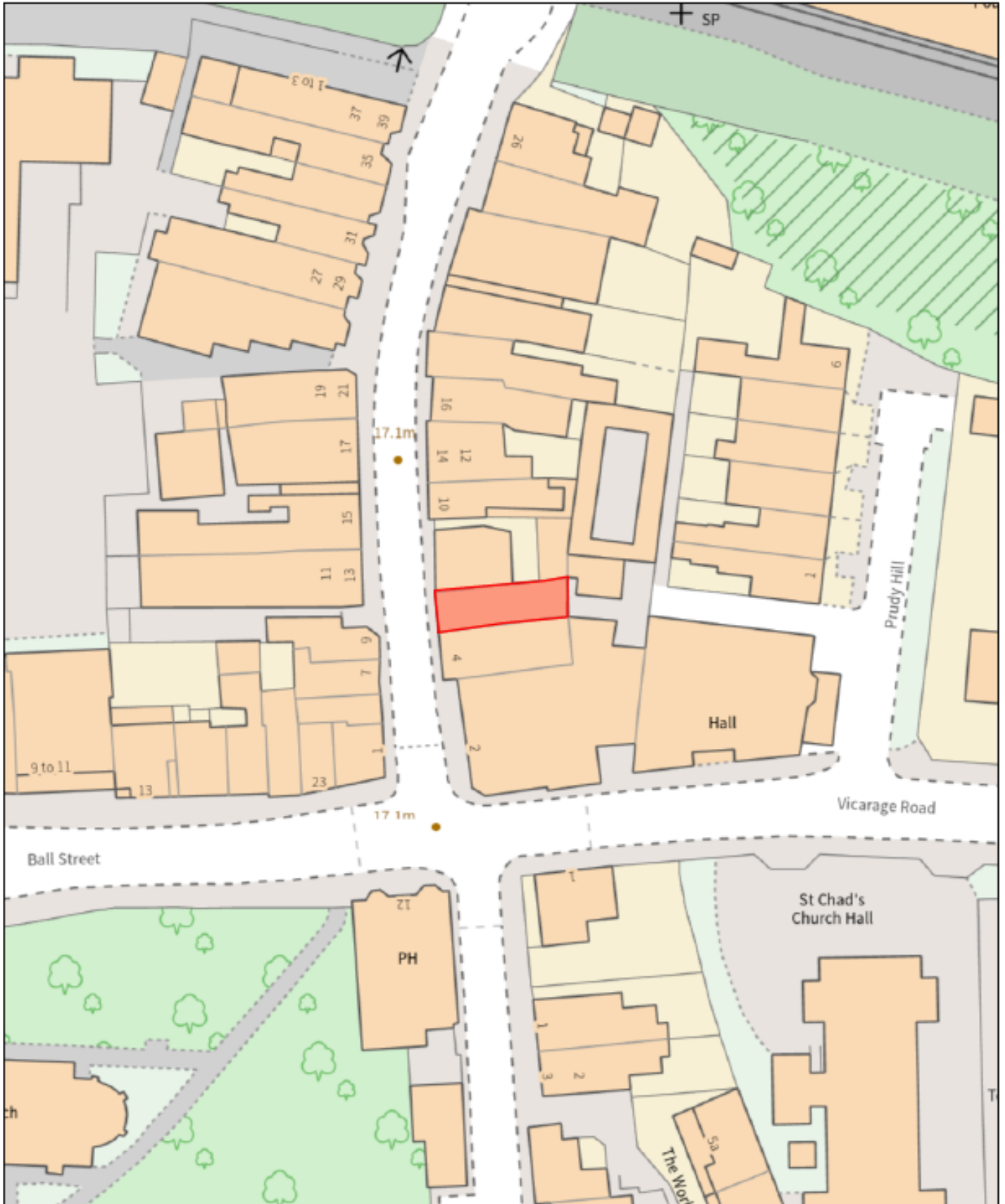
Reason: To safeguard the visual amenities of the locality and in accordance with Policy CDMP3 of the Wyre Local Plan (2011-31).

4. The bi-folding window on the front elevation as shown on the approved plan shall be closed at 19.00hrs on any given day and shall remain closed until 09:00hrs on the following day.

Reason: To avoid an unacceptable impact on residential amenity by virtue of noise in accordance with Policy CDMP1 of the Wyre Local Plan and the National Planning Policy Framework.

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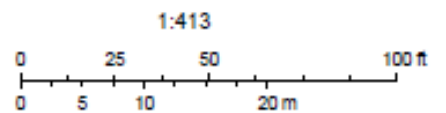
Planning Committee - Item 1



2/21/2024, 4:31:14 PM

23/00705/FUL

6 Breck Road, Poulton-Le-Fylde, Lancashire, FY6 7AA



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Report of:	Meeting	Date	Item No.
Mark Billington Corporate Director Environment	Planning Committee	6 March 2024	

Wyre Council Tree Preservation Order No 2 of 2024: Land west of 2 Eaton Way, Poulton le Fylde, FY6 8DS

1. Purpose of report

- 1.1 To consider the objection to the making of Wyre Council Tree Preservation Order No 2 of 2024: Land west of 2 Eaton Way, Poulton le Fylde, FY6 8DS.

2. Outcomes

- 2.1 To determine whether or not to confirm the Wyre Council Tree Preservation Order No 2 of 2024: Land west of 2 Eaton Way, Poulton le Fylde, FY6 8DS.
- 2.2 An effective tree preservation order makes it an offence to do any works to the protected trees without first gaining consent from the Local Planning Authority unless such works are covered by an exemption within the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

3. Recommendation

- 3.1 That Wyre Council Tree Preservation Order No 2 of 2024: Land west of 2 Eaton Way, Poulton le Fylde, FY6 8DS be confirmed without modification.

4. Legislative background to the TPO

- 4.1 Section 198 of The Town and Country Planning Act 1990 (as amended) empowers Local Planning Authorities to protect trees or woodlands in their area in the interests of amenity by making tree preservation orders. Following the introduction of **The Town and Country Planning (Tree Preservation) (England) Regulations 2012**, The Local Planning

Authority is required to confirm a tree preservation order within six months of the issue date if it is to continue to have effect after that period. When an objection is received, a decision on confirmation is usually referred to the Planning Committee.

- 4.2** Tree preservation orders are usually made because it is considered expedient in the interests of amenity to protect the trees from felling or pruning. Authorities can also consider other sources of risks to trees with significant amenity value. For example, changes in property ownership and intentions to fell trees are not always known in advance, so it may sometimes be appropriate to proactively make an order as a precaution.
- 4.3** Amenity is not defined in law but the government's advice is that authorities need to exercise judgement when deciding whether it is within their powers to make an Order. Orders should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public. Before authorities make or confirm an Order they should be able to show that protection would bring a reasonable degree of public benefit in the present or future (GOV.UK, 2014).
- 4.4** Therefore the following criteria should be taken into account when assessing the amenity value of trees:
- **Visibility:** *the extent to which the trees or woodlands can be seen by the general public will inform the LPA's assessment of whether its impact on the local environment is significant. The trees, or at least part of them, should normally be visible from a public place, such as a road or footpath, or accessible by the public.*
 - **Individual, collective and wider impact:** *public visibility alone will not be sufficient to warrant an Order. The authority is advised to also assess the particular importance of an individual tree, of groups of trees or of woodlands by reference to it of their characteristics including:*
 - *Size and form;*
 - *Future potential as amenity;*
 - *Rarity or historic value;*
 - *Contribution to, and relationship with, the landscape; and*
 - *Contribution to the character or appearance of a conservation area.*
 - **Other factors:** *where relevant to an assessment of the amenity value of trees or woodlands, authorities may consider taking into account other factors, such as importance to nature conservation or response to climate change, although according to guidance these "Other factors" alone would not warrant the making an order.*

(Source: Tree Preservation Orders and trees in Conservation Areas/Planning Practice Guidance March 2014).

- 4.5** The Regulation 5 notice, which is a legal notice that is served with the tree preservation order documents on the owner and occupier of the land affected by a tree preservation order and also the owner and occupier of the adjoining land, states the reason why the trees have been protected and invites objections or representations to be made to the Local Planning Authority within a 28-day period. The Regulation 5 Notice issued in respect of the land affected by the TPO gave the reason for making the TPO as *“it is expedient in the interest of amenity”*.
- 4.6** Once made, a tree preservation order takes effect provisionally for six months, but must be confirmed by the Local Planning Authority within that period to continue to be effective. If it is not confirmed the tree preservation order ceases to have effect and the trees are unprotected. When objections or representations are received the Council must consider those before any decision is made whether or not to confirm the order. In these cases, referral to Planning Committee is usually appropriate.
- 4.7** Within the framework of a TPO, a Local Planning Authority may classify trees as occurring either as individuals, groups, woodlands, or areas.

5. Background to making the TPO

- 5.1** On 25 October 2023 the Tree Officer visited the site and undertook an appropriate tree evaluation method for preservation orders (“TEMPO”) which guided the subsequent decision to make the TPO. A copy of the completed TEMPO survey data sheet relating to the TPO along with images of T1 sequoia tree are appended to this report at Appendix 1.

On 10 January 2024 Wyre Council made Wyre Council Tree Preservation Order No 2 of 2024: Land west of 2 Eaton Way, Poulton le Fylde, FY6 8DS. A copy of the TPO plan is appended to this report at Appendix 2.

- 5.2** The Council served correspondence on the owner and occupier of the land affected by the TPO and on those adjoining, notifying them of the making of the TPO in accordance with Regulation 5 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

The period for any objections and representations to be made to the Council in respect of the TPO ended on 7 February 2024.

- 5.3** The Council received an objection via e-mail on 22 January 2024 from the daughter of the owner of the land affected by the TPO, acting on the owners behalf. A redacted copy of this e-mail is appended to this report at Appendix 3.

6. Summary of Objections

6.1 The tree is now of an unmanageable size on a very small plot of land and I believe it poses a threat to properties and potentially to peoples lives.

It is not indigenous and has relatively shallow roots. It is now listing quite noticeably.

The owner of the tree is elderly and has significant visual impairment and will also struggle to arrange regular assessments to monitor its ongoing safety.

Proximity to 2 Eaton Way. It blocks the light to the property and garden and would be a significant danger if it fell.

Proximity to the electricity substation which is immediately behind the tree. Falling branches or the tree could be a huge danger and would compromise the power supply to the area.

Properties in Towbeck Gardens, which had not been constructed when the tree was planted, are now also affected. The tree could be a danger and may also block their light.

The increasing number of storms are making the likelihood of falling debris and falling trees a very real hazard.

7.0 Response to Objections

7.1 No structural or physiological issues in relation to T1 sequoia were noted during the TEMPO assessment undertaken by the Tree Officer on 25 October 2023.

7.2 Whilst not native to the UK, sequoia is listed as endangered by the International Union for Conservation of Nature.

Sequoia trees are long lived. Sequoia trees have a shallow rooting habit. This doesn't equate to an increased likelihood of impaired root anchorage. If this was the case then sequoia trees would have a much shorter lifespan.

The stem is displaying a slight lean as a natural growth response to the prevailing wind.

7.3 Whilst the owner of T1 sequoia would struggle to arrange regular assessments to monitor ongoing T1 sequoia safety, this task could possibly be arranged by the owner's daughter if able.

- 7.4 During the 25 October 2023 TEMPO assessment the Tree Officer did not view any signs of tree ill health or weakened structure which would indicate a heightened risk of tree failure.
- 7.5 There is no legal right to light in relation to single coniferous trees and it is reasonable to expect a degree of light loss at some point during the day due to the orientation of the tree to gardens and dwellings and the path the sun travels. However, no objections or representations have been received from the owners and occupiers of those properties adjoining the land affected by the TPO.
- 7.6 Increased severity and frequency of storms are impacting on tree populations as those trees that are in a weakened state are more likely to fail. However, the sequoia tree under consideration is in a healthy condition and as such is not presenting a heightened risk of failure.
- 7.7 In all the circumstances, the officer's view is that it is expedient in the interests of amenity to make a confirmed tree preservation order as set out within the schedule.
- 7.8 Advice pertaining to Planning Committee and its procedures along with a copy of this report relating to the TPO have been forwarded to the party that objected in reasonable advance of the meeting of Planning Committee on 6 March 2024

8.0 Concluding remarks

- 8.1 It is considered that the TPO has been properly made in the interests of securing the contribution and benefit to the public amenity in the area. The TPO protects important elements of the local landscape and contributes to the local environment. The individual tree presently protected by the TPO has been assessed in a structured and consistent way using an approved method.
- 8.2 It is considered that the procedural requirements of the legislation have been followed in the creation of the TPO and determinations made using a widely accepted method including an expediency assessment. Having regard to the legislation and the Government Guidance, it is considered that the TPO is fully justified in all respects and should be confirmed.

Financial and Legal Implications	
Finance	None.
Legal	Before confirming a Tree Preservation Order, the Local Planning Authority must consider any objections/representations made within the 28-day objection period. If, having considered any objections/representations received, the Local Planning

	Authority is satisfied that the tree merits a TPO; it may confirm the Order under the Town and Country Planning Act 1990 and supporting Regulations. The LPA may also confirm an Order in modified form, revoke it, or allow it to lapse. However it cannot add to the Schedule references to a tree to which the Order did not previously apply. There is no right of appeal to the Secretary of State, but a challenge may be made to the High Court on a point of law.
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Other risks/implications: checklist

If there are significant implications arising from this report on any issues marked with a ✓ below, the report author will have consulted with the appropriate specialist officers on those implications and addressed them in the body of the report. There are no significant implications arising directly from this report, for those issues marked with an x.

implications	✓ / x
community safety	x
equality and diversity	x
sustainability	✓
health and safety	x

risks/implications	✓ / x
asset management	X
climate change	✓
data protection	X

report author	telephone no.	email	Date
Ryan Arrell BSc (Hons), HND, LANTRA qualified professional tree inspector.	01253 887614	Ryan.Arrell@wyre.gov.uk	09 February 2024

List of background papers:		
name of document	date	where available for inspection
Wyre Council TPO No 2 of 2024:	10 January 2024	Room 134 or by email to Tree Officer.

List of Appendices

Appendices:

- 1** –TEMPO survey data sheet completed and also public visibility images of the TPO.
- 2** –TPO plan.
- 3** – (i) Redacted copy of objection e-mail.

References List

Tree Preservation Orders and trees in Conservation Areas. GOV.UK, (2014) Accessed Via <https://www.gov.uk/guidance/tree-preservation-orders-and-trees-in-conservation-areas>

(TEMPO) Tree Evaluation Method for Preservation Orders
<http://www.flac.uk.com/wp-content/uploads/2014/12/TEMPO-GN.pdf>

Town and Country Planning (Tree Preservation) (England) Regulations 2012.

Appendix 1

TREE EVALUATION METHOD FOR PRESERVATION ORDERS - TEMPO

SURVEY DATA SHEET & DECISION GUIDE

Date: 25/10/23		Surveyor: L. Arnell	
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Tree details	
TPO Ref (if applicable):	Tree/Group No: 1
Owner (if known):	Species: Sequoia
	Location: head west of 2 Eaton Way
	Pullen le Fyde.

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part 1: Amenity assessment

a) Condition & suitability for TPO

5) Good	Highly suitable	<table border="1" style="width: 100%;"> <tr><th>Score & Notes</th></tr> <tr><td>3 - no structural or physiological issues noted.</td></tr> </table>	Score & Notes	3 - no structural or physiological issues noted.
Score & Notes				
3 - no structural or physiological issues noted.				
3) Fair/satisfactory	Suitable			
1) Poor	Unlikely to be suitable			
0) Dead/dying/dangerous*	Unsuitable			
* Relates to existing context and is intended to apply to severe irremediable defects only				

b) Retention span (in years) & suitability for TPO

5) 100+	Highly suitable	<table border="1" style="width: 100%;"> <tr><th>Score & Notes</th></tr> <tr><td>2</td></tr> </table>	Score & Notes	2
Score & Notes				
2				
4) 40-100	Very suitable			
2) 20-40	Suitable			
1) 10-20	Just suitable			
0) <10*	Unsuitable			

* Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality

c) Relative public visibility & suitability for TPO

Consider realistic potential for future visibility with changed land use

5) Very large trees with some visibility, or prominent large trees	Highly suitable	<table border="1" style="width: 100%;"> <tr><th>Score & Notes</th></tr> <tr><td>4</td></tr> </table>	Score & Notes	4
Score & Notes				
4				
4) Large trees, or medium trees clearly visible to the public	Suitable			
3) Medium trees, or large trees with limited view only	Suitable			
2) Young, small, or medium/large trees visible only with difficulty	Barely suitable			
1) Trees not visible to the public, regardless of size	Probably unsuitable			

d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

5) Principal components of formal arboricultural features, or veteran trees	<table border="1" style="width: 100%;"> <tr><th>Score & Notes</th></tr> <tr><td>1</td></tr> </table>	Score & Notes	1
Score & Notes			
1			
4) Tree groups, or principal members of groups important for their cohesion			
3) Trees with identifiable historic, commemorative or habitat importance			
2) Trees of particularly good form, especially if rare or unusual			
1) Trees with none of the above additional redeeming features (inc. those of indifferent form)			

-1) Trees with poor form or which are generally unsuitable for their location

Part 2: Expediency assessment

Trees must have accrued 10 or more points to qualify

5) Immediate threat to tree inc. s.211 Notice	<table border="1" style="width: 100%;"> <tr><th>Score & Notes</th></tr> <tr><td>2</td></tr> </table>	Score & Notes	2
Score & Notes			
2			
3) Foreseeable threat to tree			
2) Perceived threat to tree			
1) Precautionary only			

Part 3: Decision guide

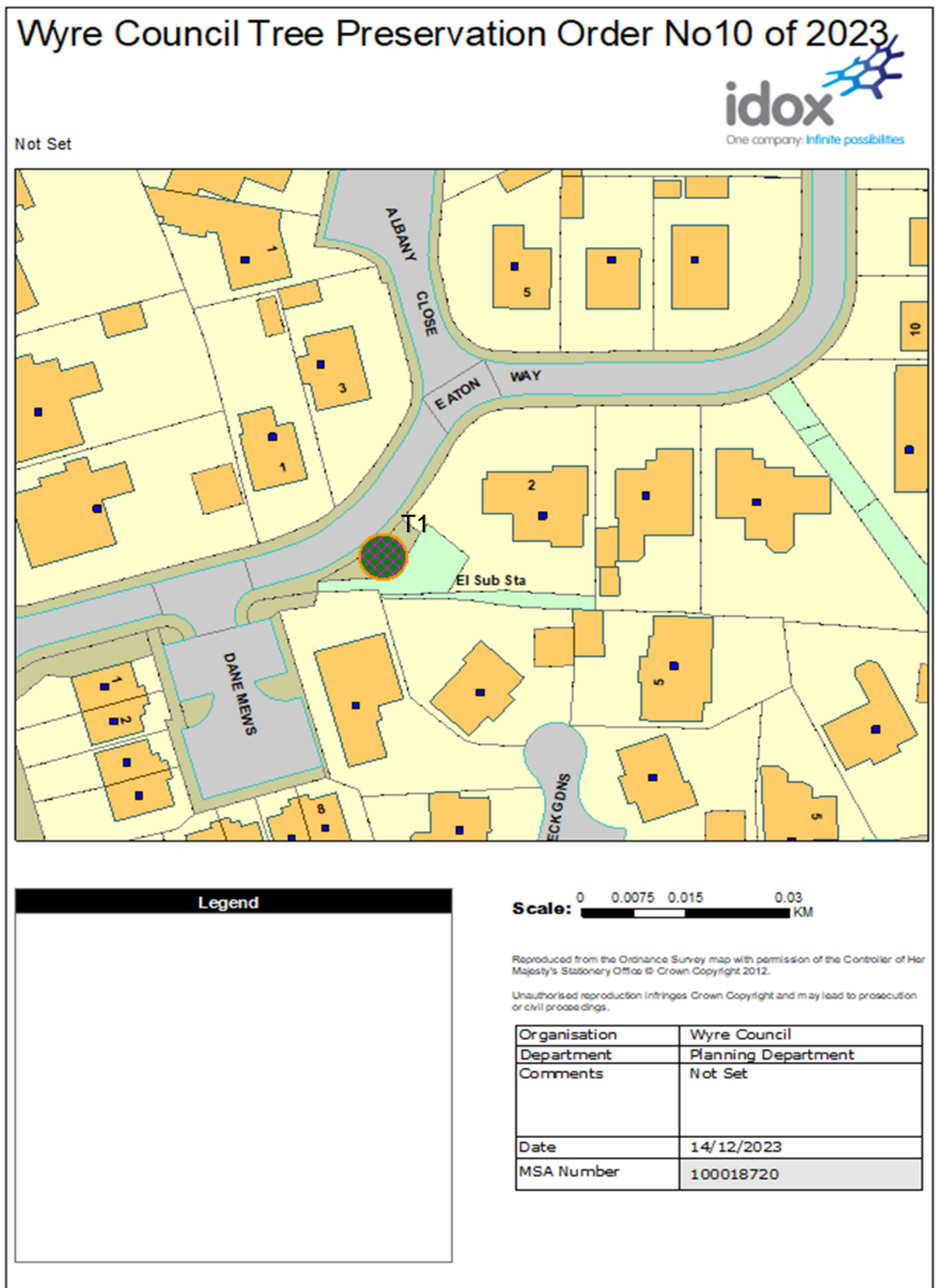
Any 0	Do not apply TPO	<table border="1" style="width: 100%;"> <tr> <th>Add Scores for Total:</th> <th>Decision:</th> </tr> <tr> <td>12 TPO defensible</td> <td>Make TPO</td> </tr> </table>	Add Scores for Total:	Decision:	12 TPO defensible	Make TPO
Add Scores for Total:	Decision:					
12 TPO defensible	Make TPO					
1-6	TPO indefensible					
7-11	Does not merit TPO					
12-15	TPO defensible					
16+	Definitely merits TPO					



Above image: View of TPO when looking south on Eaton Way.



Above image: View of TPO tree when looking south west on Eaton Way.



Appendix 3

Mon 22/01/2024

FAO Ryan Arrell

I am writing to express my concerns about the Tree Preservation order proposed for the sequoia on land west of 2 Eaton Way (02/2024/TPO)

The tree is now of an unmanageable size on a very small plot of land and I believe it poses a threat to properties and potentially to peoples lives.

It is not indigenous and has relatively shallow roots. It is now listing quite noticeably. The tree was planted by my late father who never really expected it to root. My mother owns the tree and at 93 years of age and with significant visual impairment, she is unable to see its dangers. She will also struggle to arrange regular assessments to monitor its ongoing safety.

I believe the significant issues are:

- Proximity to 2 Eaton Way. It blocks the light to the property and garden and would be a significant danger if it fell.
- Proximity to the electricity substation which is immediately behind the tree. Falling branches or the tree could be a huge danger and would compromise the power supply to the area.
- Properties in Towbeck Gardens, which had not been constructed when the tree was planted, are now also affected. The tree could be a danger and may also block their light.
- The increasing number of storms are making the likelihood of falling debris and falling trees a very real hazard.

I wrote to you back in September to check that the tree could be taken down and again in October. You were too busy to reply but not too busy to put a preservation order in motion. This has been really unhelpful. My intentions in removing the tree are to make the property and it's surrounding area safer for everyone.

I have also spoken to neighbours who are concerned and not appreciative of the shadows cast by the tree.

I have tried to call you at the office but only gain access to an answer phone.

I would be grateful to have the opportunity to discuss this further. My mobile number is 07976545898

I would also appreciate you dealing with me rather than my mother as she is already becoming stressed by the situation.

Yours sincerely

